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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/748,759

12/30/2003

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EXAMINER

RETTA, YEHDEGA

ART UNIT

PAPER NUMBER

3622

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/748,759	<b>Applicant(s)</b> SCHOLL ET AL.	
	<b>Examiner</b> Yehdega Retta	<b>Art Unit</b> 3622	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED \_\_\_\_\_ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1,2,4 and 6-21.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/Yehdega Retta/  
 Primary Examiner, Art Unit 3622

Continuation of 11. does NOT place the application in condition for allowance because: Applicant amended claim 1 to correct minor typographical error and canceled claims 22-34.

Applicant states that Applicant's technology provides a computer system that allows an advertiser to generate advertisement sets automatically, to calculate bid amounts based on profitability or some other financial measure, and then to select which advertisement sets are to be submitted to an advertisement placement service (e.g., a search engine service). Applicant states that some advertisement placement services allow each advertiser to submit only one advertisement set per keyword. Applicant asserts, thus an advertiser would not be able to submit an advertisement set with the keyword "Harry Potter," to advertise a certain book and another advertisement set with the keyword "Harry Potter" to advertise a certain DVD. Applicant states that applicant's technology selects an advertisement set from multiple conflicting advertisement sets that share the same keyword based, in part, on past successes of the advertisements, after selecting an advertisement set, applicant's technology submits the advertisement set to an advertisement placement service. Applicant further indicates that since different advertisement sets with the same keyword may be automatically generated by different advertisement generators, a conflict may occur if two advertisement sets were submitted to such an advertisement placement service.

Examiner would like to point out, that the claims do not recite that one advertiser generates different advertisement sets, and it does not recite that the advertisement set is for same keyword. The claim recites advertisement generators automatically generate advertisement sets using different algorithms, each advertisement set having a keyword and an advertisement. As claimed the advertisement generators could generate different advertisement sets for different advertisers. Each advertisement set could have different advertisement and keyword, therefore, there is not conflict occurring. Second, the claim does not recite that when the advertisement manger selects advertisement set that there is an advertisement set that is currently submitted. Therefore, if there is no advertisement currently submitted any advertisement set selected by the advertisement manger creates no conflict. Examiner also would like to point out that the claim recites a fee calculator calculates fee amount for advertisements based on anticipated profitability of the advertisement sets, and an advertisement submitter sends a request to place the advertisement along with content associated with the keyword at the fee amount. No where in the claim is indicated that the selected advertisement set is submitted to advertisement placement service. Therefore, applicant is arguing features or steps that are not claimed.